

# MANDATE

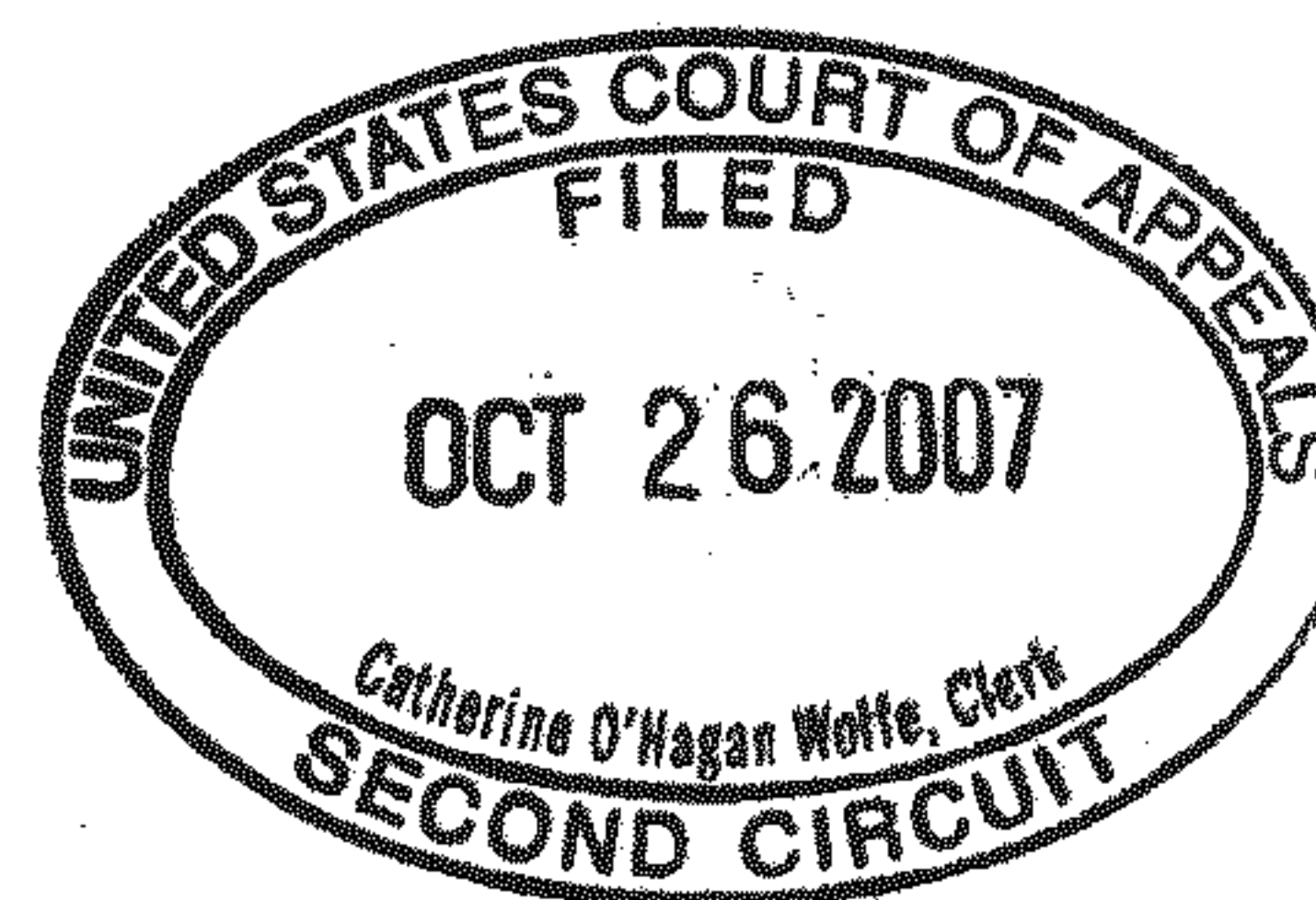
S.D.N.Y.  
07-cv-7140  
Wood, C.J.

## United States Court of Appeals FOR THE SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 26th day of October, two thousand seven,

Present:

Hon. Sonia Sotomayor,  
Hon. Barrington D. Parker,  
Hon. Peter W. Hall,  
*Circuit Judges.*



Ignacio Reynoso,

*Petitioner-Appellant,*

v.

07-3627-op  
07-4084-pr

Dominic Napoli,

*Respondent-Appellee.*

The two cases pending in this Court under docket numbers 07-3627-op and 07-4804-pr were opened as a result of the district court's order transferring a 28 U.S.C. § 2254 petition to this Court pursuant to 28 U.S.C. § 2244. Under docket number 07-3267-op, which this Court opened upon receipt of the transferred petition, petitioner moves for an extension of time to file an application for leave to file a successive habeas petition. Petitioner has also filed a notice of appeal of the transfer order, resulting in the proceeding docketed under 07-4084-pr. Upon due consideration, it is hereby ORDERED that the two appeals are consolidated, and the appeal docketed under 07-4084-pr is DISMISSED for lack of appellate jurisdiction. *See Murphy v. Reid*, 332 F.3d 82, 83-85 (2d Cir. 2003) (per curiam) (holding that transfer orders are not immediately appealable under 28 U.S.C. § 1291 or the collateral order doctrine). Furthermore, we construe the § 2254 petition that was transferred to this Court as petitioner's application for leave to file a successive § 2254 petition, and, as so construed, it is further ORDERED that the application is DENIED because petitioner has not presented any new law or evidence within the meaning of 28 U.S.C. § 2244(b) in support of his claims. To the extent that the law existing prior to the enactment of the Anti-Terrorism and Effective Death Penalty Act applies to this matter, petitioner has not presented any claims which might entitle him to relief.

A TRUE COPY  
Catherine O'Hagan Wolfe, Clerk

by

DEPUTY CLERK

Issued as Mandate:

11/28/07

D.B.



Finally, it is further ORDERED that petitioner's motion for an extension of time to file an application is DENIED as moot, since the petitioner's application has been denied and there is no indication that the pending state court proceedings would result in either new law or new evidence to form the basis of a meritorious application for leave to file a successive § 2254 petition.

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk

By: Lucille Carr

26 2007